

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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TRUSTEES OF THE LOCAL 138, 138A & 138B INTERNATIONAL
UNION OF OPERATING ENGINEERS WELFARE FUND,
ANNUITY FUND, LEGAL FUND, VACATION FUND,
APPRENTICESHIP TRAINING FUND AND TRUSTEES OF THE
CENTRAL PENSION FUND OF THE INTERNATIONAL UNION
OF OPERATING ENGINEERS,

Plaintiffs,

Order
16-cv-1066(ADS)(AYS)

-against-

EARLY BIRD SWEEPING CONTRACTORS, INC.,

Defendant.

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APPEARANCES:

Pitta & Giblin, LLP

Attorneys for the Plaintiffs

120 Broadway, 28th Floor

New York, NY 10271

By: Jane L. Barker, Esq.
Lauren Bonaguro, Esq., Of Counsel

NO APPEARANCE:

Early Bird Sweeping Contractors, Inc.

Defendant

SPATT, District Judge:

On March 3, 2016, the Plaintiffs commenced this ERISA action against the Defendant Early Bird Sweeping Contractors, Inc., seeking to recover allegedly delinquent fringe benefit contributions that the Defendant was obligated to make pursuant to the terms of a collective bargaining agreement, together with associated damages under the statute, including interest, liquidated damages, attorneys' fees, and costs.

On November 30, 2016, after the Clerk noted the Defendant's default, the Plaintiffs filed a motion for a default judgment, which this Court referred to United States Magistrate Judge Anne Y. Shields.

On March 3, 2017, Judge Shields issued a Report and Recommendation, recommending that the motion for a default judgment be denied on the ground that the Plaintiff had failed to properly serve the Defendant with process. Judge Shields further recommended granting the Plaintiff a 60-day extension of time to effectuate service.

More than fourteen days have elapsed since the issuance of the R&R, and the Plaintiff has neither filed an objection nor requested an extension of time to do so. Therefore, pursuant to 28 U.S.C. § 636(b) and FED. R. CIV. P. 72, this Court has reviewed the R&R for clear error, and finding none, now concurs in both its reasoning and its result.

Accordingly, the March 3, 2017 Report and Recommendation is adopted in its entirety. The Plaintiff's motion for a default judgment, DE [11], is denied, and the Plaintiff shall have until June 7, 2017 to effectuate proper service of the Summons and Complaint on the Defendant. If by June 7, 2017, proof of service has not been filed, the Clerk is directed to close this case.

It is **SO ORDERED**:

Dated: Central Islip, New York
April 8, 2017

/s/ Arthur D. Spatt
ARTHUR D. SPATT
United States District Judge